

MONTANA BOARD OF HORSE RACING MEETING
DECEMBER 3, 2005 – 9:00 A.M.
IRON HORSE BALLROOM, GREAT NORTHERN HOTEL
HELENA, MT

Unapproved Minutes

ATTENDANCE:

Sue Austin	Chairman	Tim Donnelly	Vice-chairman
Barbara Cole	Board Member	Jay Clark	Board Member
Al Carruthers	Board Member	Bob Brastrup	Board Member
Sam Murfitt	Executive Secretary	Carol Grell Morris	Legal Counsel
Marlys Stark	Administrative Assistant		

PUBLIC IN ATTENDANCE:

Lynn Tripp, Butch Woolard, Patty Rambo, Phyllis Tryon, John Scott, Phil Helean, Martin Eike, Lou Wojciechowski, Ben Carlson, Jim Johnson, Skip Score, Scot Meader, Toni Hinton, Lyle Bauman, Mike Clasby

CALLED TO ORDER:

Chairman Austin called the meeting to order at 9:093 a.m.

MINUTES:

Approval of minutes was tabled to a future meeting.

2006 RACE DATE HEARING:

Contested case hearing was opened at 9:11 a.m. Testimony was presented and cross-examination conducted of all witnesses. Evidence was presented consisting of applications and financial information from the tracks. Representatives were available to answer questions regarding their meet. Representatives were John Scott for State Fair, Scot Meader for Western Montana Fair, Butch Woolard for Northwest Montana Fair, Ben Carlson and Lou Wojciechowski for Yellowstone Downs. There was no representative available for Bucking Horse Sale.

The Board discussed the overlap of days between Yellowstone Downs and Northwest Montana Fair. Both tracks expressed concerns about the lack of horses and jockeys and the desire to run during their fair. MetraPark has rearranged the fair schedule so racing runs the last weekend instead of the rodeo, which should help attendance due to later post times.

Testimony was closed at 10:10 a.m.

Member Koch made a motion the Board approve all dates as applied for. Motion was seconded by several members and carried by a vote of 5 to 1.

Scot Meader, Western Montana Fair, requested the Board again require Yellowstone Downs to NOT accept horses until after the Western Montana Fair meet is over. The Board discussed the matter but did not take any action.

UNCLAIMED TICKET MONEY:

Mont. Code Ann. §23-4-305 requires the Board to approve all capital improvements which the tracks propose to complete with unclaimed ticket money. Members reviewed the unclaimed ticket money amounts from each track for 2005, as well as the capital improvements each track requested to use the money for in 2006.

Motion by Member Clark, seconded by Member Koch to approve the expenditures as requested. Motion carried.

PERCENTAGE OF SB65 FOR OPERATIONS:

In the past the Board approved the use of up to 5% of a track's total annual SB65 money for operations. Yellowstone Downs is the only track that has taken advantage of that option. Executive Secretary Murfitt suggested that it might be in the best interest of horse racing to increase the amount allowed for operations, which would decrease purses somewhat but may enable the tracks to continue operating without dropping days.

Motion by Member Clark to increase the amount allowed to 10%. Motion withdrawn.

Motion by Member Clark to place this matter on a future agenda, seconded by Member Carruthers. Motion carried.

2005 CARRYOVER MONEY:

Executive Secretary Murfitt presented the amount of SB65 money that was left to each track at the end of the 2005 summer season as carryover. The Board had set a goal of no more than \$5000 as carryover for each track. Northwest Montana Fair and Yellowstone Downs had retained more than \$5,000, due to weather cancellations in the past two years.

2006 BACKSIDE SECURITY:

Backside security was an issue in 2005 at Northwest Montana Fair and Montana State Fair due to the lack of space and stabling for Indian Relay participants on the backside of those tracks. Reports from State Steward Raleigh Swensrud and Security Gary Koepplin regarding backside security at those tracks were reviewed. Current Montana Board of Horse Racing rules provide that each licensee (track) must police their grounds in order to prevent any unlicensed people from being on the backside and the tracks are subject to fines each day they fail to do so. The Board discussed reminding those tracks now of the rules so they have time to make other stabling arrangements for non race participants in 2006.

Member Carruthers made a motion to direct Board staff to send a letter to both Western Montana Fair and State Fair outlining the appropriate rules and results of failure to conform to those rules in 2006. Member Koch seconded the motion and motion carried.

BOARD BUDGET:

Executive Secretary Murfitt briefly outlined the current status of the Board budget and end of fiscal year status for the last few years. No action was taken.

POSSIBLE RULE CHANGES:

1. ARM 32.28.504, Jockey Incentive: The Board discussed the existing jockey incentive rule and the possibility of NOT having an incentive in 2006.

Motion by Member Carruthers to continue the incentive without any changes for 2006 and revisit the issue for 2007. Member Austin seconded the motion, motion carried with a vote of 3 for, 2 against and one abstention.

2. ARM 32.28.501 (15), Steward Wording Change: The rule states each track licensee shall “hire two stewards.” New rules were implemented in 2005 requiring the Board to hire all stewards. ARM 32.28.501 (15) (b) should be deleted to be consistent with the earlier rule changes.

3. New Rule, Clockers: In the 2005 season, the Board office directed tracks and stewards to ensure that each horse had works that were entered in the program in an effort to give the bettors more information. Consideration was given to adding a requirement for works into administrative rules. The Board noted it was not possible to record and report works in the program in an efficient and accurate manner. Therefore the works should be totally eliminated, and no rule changes are necessary.

Board staff was directed to send a notice to all tracks informing them that no works would be required and none needed to be entered on the program.

4. ARM 32.28.601, Horsemen’s Bookkeeper: Currently the license category for horsemen’s bookkeeper isn’t classified as a race official. This position has access to all the financial records and should be classified as a major official.

Member Donnelly moved the Board propose rule changes to add the horsemen’s bookkeeper on the list of major officials (ARM 32.28.601) and to delete the outdated reference to two stewards being hired by the track (ARM 32.28.501). Member Clark seconded the motion and motion carried.

HUMAN RIGHTS UPDATE:

Attorney Grell Morris updated the Board. The Human Rights Bureau has appointed a hearing examiner who issued a Scheduling Order, setting the hearing in Billings on January 3rd. Discovery has been submitted to the Charging Party with no response. There have also been three motions filed for the Board, which includes a Motion to Dismiss, a Motion for Summary Judgment and a Motion to Vacate the current hearing date. None of these motions have been ruled on by the hearing examiner. The Board has not received any response to the Discovery requests, or to any Motion. The process for the hearing is moving forward.

At the previous meeting, the Board directed Board staff to discuss with Yellowstone Downs the payment of the hearing costs and attorney fees. Executive Secretary Murfitt reported he didn’t receive a firm answer in any way. The Board has no funding available to cover this type of cost and it will have to come from SB65 money. The Board discussed whether Yellowstone Downs should share in the cost of the attorney fees and any payment ordered by the Hearing Examiner.

Motion by Member Brastrup, seconded by Member Donnelly to take the money from Yellowstone Downs’ SB65 funds to pay for the defense costs and any award. After some discussion this motion was withdrawn.

Motion by Member Brastrup, seconded by Member Donnelly to take 50% of defense costs from Yellowstone Downs’ SB65 funds and 100% of any award. Motion carried.

PERSONAL SERVICES CONTRACT:

The Human Rights case will require additional attorney hours for defense. Therefore the hours on the attorney contract need to be increased.

Motion by Member Carruthers to increase legal counsel contract hours to 150. Motion seconded by Member Koch and motion carried.

OTHER BUSINESS:

The Board has received notice that North American Parimutuel Regulatory Association (NAPRA) will be combining with Association of Racing Commissioners International (ARCI or RCI) into one company, to be called ARCI. Fees for 2006 will be paid to ARCI and the databases will be combined into one.

Richard Clay sent a letter into the Board regarding the assistant starters (headers). Some trainers and owners want to change the assistant starter rules to allow trainers to pay their own headers. In addition they would like to tail their own horses.

Member Carruthers made a motion, seconded by Member Donnelly, to place a discussion about starters, assistant starters and tailers on the next agenda and to ask the starters to attend that meeting. Motion carried.

PUBLIC COMMENT:

In accordance with Mont. Code Ann. § 2-3-103, the meeting was opened for public comment at this time. Chairman Austin read the open forum statement and the public was informed that they could have a short time for comment but that no action could be taken on any issue at this time.

Scot Meader requested that the Board look into the possibility of giving some funding to a horse racing promotional group if it gets started. **He requested this be put on a future agenda.**

OFFICER ELECTION:

Terms for two of the current board members expire in January. The Board discussed the possibility of electing officers for 2006 at this time rather than the next meeting. The Board agreed to wait until the next meeting when the new members will be able to participate.

ADJOURNMENT:

The meeting adjourned at 1:15 p.m.

Signature

Date